

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 13  
:   
RUSSELL ALLEN CLARK and : CASE NO.: 18-10025  
MARY L. CLARK, :   
:   
Debtors. :   
=====

FIRST NATIONAL BANK OF :  
PENNSYLVANIA, successor by merger to :  
Metro Bank, :

Movant. :

and :

RUSSELL ALLEN CLARK, MARY L. CLARK :  
and FREDERICK L. REIGLE, Chapter 13 Trustee, :

Respondents. :

**OBJECTION TO DEBTORS' CHAPTER 13 PLAN**

AND NOW, comes First National Bank of Pennsylvania, successor by merger to Metro Bank ("Movant"), by and through its attorneys, JSDC Law Offices, and files this Objection to Debtors' Chapter 13 Plan and avers as follows:

1. This is an action arising pursuant to a case under Title 11 of the United States Code.
2. Movant is a lending institution duly authorized to conduct business in the Commonwealth of Pennsylvania and is a party-in-interest under the provisions of the Bankruptcy Code, as it is a secured creditor of the Debtors, Russell Allen Clark and Mary L. Clark ("Debtors").

4. The Debtors filed a Voluntary Petition for relief under Chapter 13 of the Bankruptcy Code on January 3, 2018 ("Petition") and subsequently filed their Chapter 13 Plan ("Plan").

5. The Debtors are currently obligated to Movant, under the terms of a certain Promissory Note, dated December 17, 2012, in the original principal amount of \$40,000.00 ("Note"), in favor of Movant.

6. As security for repayment of the Note, Debtors executed a certain Open-End Mortgage and Security Agreement, dated of even date, in favor of Movant, with respect to certain real property owned by the Debtors located at 517 Linden Street, Leesport, Pennsylvania 19533 ("Real Property"), with said Mortgage being recorded in the Office of Recorder of Deeds in and for Berks County, Pennsylvania, on December 28, 2012, as Instrument Number 2012054872 ("Mortgage").

7. At the time of recording, the Mortgage became a first priority mortgage lien upon the Real Property.

8. On or about March 19, 2018, Movant filed its Proof of Claim ("Claim") evidencing a total secured claim of \$51,936.03 and a pre-petition arrearage of \$21,789.77.

9. Debtors' Plan proposes to pay the pre-petition arrearages due to Movant in the total amount of \$15,000.00; however, that amount is considerably less than the amount listed in Movant's Claim of \$21,789.77.

10. Debtors' Plan is in violation of §1322(b)(2) and (5) of the Bankruptcy Code, because it fails to provide adequate protection payments to Movant over the life of the Plan in the amount of its secured pre-petition arrearage claim, and, in effect, impermissibly attempts to

modify the terms of Movant's Note which is secured solely by the principal residence of Debtors.

Further, the Plan is not feasible under §1325 of the Bankruptcy Code.

11. Consequently, because Debtors' Plan fails to meet the requirements of §§1322(b)(2) and (5) and §1325 of the Bankruptcy Code, the Plan cannot be confirmed.

WHEREFORE, Movant respectfully requests that this Honorable Court sustain its Objection to Debtors' Chapter 13 Plan and deny confirmation of said Plan.

JSDC LAW OFFICES

Date: March 20, 2018

BY: /s/ Kathryn L. Mason, Esquire  
Scott A. Dietterick, Esquire (PA I.D. #55650)  
Kathryn L. Mason, Esquire (PA I.D. #306779)  
P.O. Box 650  
Hershey, PA 17033  
Phone: (717) 533-3280  
Fax: (717) 298-2019  
Email: [sad@jsdc.com](mailto:sad@jsdc.com); [klm@jsdc.com](mailto:klm@jsdc.com)  
*Attorneys for Movant*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: : CHAPTER 13  
:   
RUSSELL ALLEN CLARK and : CASE NO.: 18-10025  
MARY L. CLARK, :   
:   
Debtors. :   
=====

FIRST NATIONAL BANK OF :  
PENNSYLVANIA, successor by merger to :  
Metro Bank, :

Movant. :

and :

RUSSELL ALLEN CLARK, MARY L. CLARK :  
and FREDERICK L. REIGLE, Chapter 13 Trustee, :

Respondents. :

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing Objection to Debtors' Chapter 13 Plan was served on the following this 20<sup>th</sup> day of March, 2018, via ECF Notification and/or via First Class U. S. Mail, Postage Pre-paid:

David S. Gellert, Esquire  
David S. Gellert, PC  
3506 Perkiomen Avenue  
Reading, PA 19606  
*Attorney for Debtors*

Frederick L. Reigle  
2901 St. Lawrence Avenue  
P.O. Box 4010  
Reading, PA 19606  
*Chapter 13 Trustee*

Russell & Mary Clark  
517 Linden Street  
Leesport, PA 19533  
*Debtors*

JSDC LAW OFFICES

BY: /s/ Kathryn L. Mason, Esquire  
Scott A. Dietterick, Esquire (PA I.D. #55650)  
Kathryn L. Mason, Esquire (PA I.D. #306779)  
P.O. Box 650  
Hershey, PA 17033  
Phone: (717) 533-3280  
Fax: (717) 298-2019  
Email: [sad@jsdc.com](mailto:sad@jsdc.com); [klm@jsdc.com](mailto:klm@jsdc.com)  
*Attorneys for Movant*